

## DEPARTMENT OF FINANCIAL INSTITUTIONS

TEVEIA R. BARNES, Commissioner of Financial Institutions  
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### COMMISSIONER'S OPINION – No. 001

#### **Companies That Do Not Receive Money For Transmission**

This Opinion provides guidance on the definition of “receiving money for transmission” set forth in Financial Code (FC) § 2003(s), Division 1.2 of the FC (commencing with FC § 2000), the Money Transmission Act, in the context of companies or other persons that do not actually or constructively receive, take custody or possession, or otherwise hold any money or monetary value for transmission and do not advertise, solicit or hold themselves out as providing money transmission in this state.

FC § 2003(s) defines “receiving money for transmission” as “receiving money or monetary value in the United States for transmission within or outside the United States by electronic or other means.” This means that in order to meet the definition in FC § 2003(s), a person (as defined in FC § 2003(r)) must receive money (as defined in FC § 2003(n)) or monetary value (as defined in FC § 2003(m)). Merely receiving instructions, orders or directions to transmit money or monetary value is not the equivalent of receiving money or monetary value.

Therefore, if a company or other person only receives instructions, orders or directions to transmit funds, but does not actually or constructively receive, take possession or custody, or otherwise hold any money or monetary value for transmission, that company or other person has not received money for transmission for purposes of FC § 2003(s). Examples include, but are not limited to: (1) payroll processing companies, (2) providers of electronic communications services or communication devices and (3) software application providers; provided that the companies and other persons in (1), (2) and (3) only receive instructions, orders or directions to transmit money or monetary value and do not actually or constructively receive, take possession or hold any money or monetary value for transmission, and do not advertise, solicit or hold themselves out as receiving money transmission in this state.

March 28, 2013

/s/

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